

MINUTES  
Of the meeting of the  
BOARD OF PAROLE COMMISSIONERS

June 25, 2009

**NOTE: The following minutes have not yet been approved and are subject to revision at the next meeting of the Board.**

The Board of Parole Commissioners held a public meeting on June 25, 2009, beginning at 3:30 pm at the following location:

Conference room at the central office of the Board of Parole Commissioners, located at 1677 Old Hot Springs Road, Ste. A, Carson City, NV. video conference to Parole Board Office, 4000 S. Eastern Avenue, Ste. 1360, Las Vegas, NV.

**I. Open Meeting, Call to order, roll call 3:40 p.m.**

The meeting was called to order by Chairman Bisbee. Present in Carson City were Chairman Bisbee and Commissioner Endel. Present in Las Vegas were Commissioner Keeler, Commissioner Silva and Commissioner Gray. Not present at the beginning of the meeting from 3:30 – 3:45 p.m. were Commissioner Jackson and Commissioner Baker due to existing hearings. A recess was taken at 3:45 p.m. to wait for Commissioner Jackson and Commissioner Baker to attend.

Support staff in attendance:

Kathi Baker, Executive Secretary  
David Smith, Hearing Examiner III  
Cynthia Hoover, Deputy Attorney General  
Susie Broili-Kamesh, Management Analyst I  
Monica Howk, Victims Coordinator

No members of the public were in attendance in Carson City or Las Vegas

**II. Public Comment. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2) of NRS 241.020.**

Chairman Bisbee asked any member of the public that would like to make comments regarding anything other than the items listed on the agenda to come forward and limit their comments to 3 minutes.

There were no public comments – as there were no members of the public present in Carson City or Las Vegas.

**III. Review /Approval of minutes from the February 19, 2009 and February 27, 2009 Agendas.**

Motion: Approve minutes of February 19, 2009

Made by: Commissioner Keeler

Seconded by: Commissioner Silva

Votes in Favor: Gray, Keeler, Silva, Bisbee, Endel

Votes Opposed: None

Motion: Approve minutes of February 27, 2009

Made by: Commissioner Keeler

Seconded by: Commissioner Silva

Votes in Favor: Gray, Keeler, Silva, Bisbee, Endel

Votes Opposed: None

Chairman Bisbee stated she will take the items on the agenda out of order in hopes Commissioner Jackson and Commissioner Baker will be able to attend the meeting on Items # IV, V, and VI.

**VII. The Board may act to appoint a member of the Board to the Advisory Commission on the Administration of Justice pursuant to NRS 176.0123.**

Motion: Nominate the Chairman of the Board

Made by: Commissioner Gray

Seconded by: Commissioner Silva

Votes in Favor: Gray, Keeler, Silva, Bisbee, Endel

Votes Opposed: None

Chairman Bisbee designated a short recess until Commissioner Jackson and Commissioner Baker were completed with their hearings in order to attend agenda items IV, V, and VI.

Recess at 3:45 p.m.

Meeting called back to order at 4:00 p.m.

Commissioner Jackson and Commissioner Baker joined the meeting.

**VI. 2009 Legislative update. Discussion of Bills approved during the 2009 session that impact the Parole Board. Informational item only.**

Mr. David Smith discussed AB117 and how it can be handled by the Board. Mr. Smith explained how AB117 in part allows a full Commissioner or a Hearing Representative or a person designated as a hearing rep to make a recommendation to the Board to grant parole without a meeting, if the Board guideline suggests parole should be granted. The guidelines suggest to grant approximately 120 – 180 cases per month. AB117 allows the Board to grant (if Board guideline suggest grant) without having to go through the hearing in person process. Review of AB117 cases are done the month prior to the eligibility date – if granted the files will be voted on and held in the Chairman's office until the 1<sup>st</sup> of the eligibility month for the final vote.

If it is determined that the inmate needs to be seen in person, then the inmate will be scheduled for a hearing in their eligible month. These files will immediately be sent back to records to be pulled for their scheduled hearing.

Chairman Bisbee stated AB117 items will be put down on a checklist to help staff.

Commissioner Keeler suggested that when the Commissioner's are casting their vote – to check the deviation box in order to avoid an error in casting the final vote. The Chairman would then remove the check mark when the final vote is cast.

Mr. Smith would like the Chairman and Commissioners to email him of any errors found on the risk assessments coming from NDOC. The Board will need to start providing feedback to the institutions along with training in order to score the risk level correctly and avoid the Board having to take additional time in correcting these errors.

Commissioner Baker thought it a good idea to use the deviation check box to avoid error. Commissioner Baker also suggested the AB117 files are banded together and marked as AB117.

After discussion – Chairman Bisbee suggested that Commissioners not check the deviation box at this time. If it appears there may be a problem with Commissioner's inadvertently casting the final vote – then the Board will look at using the deviation box in the future.

Mr. Smith suggested creating an AB117 form with a watermark. The Commissioners and Chairman all agreed not to use this form.

Commissioner Jackson left the meeting and returned to hearings at 4:14 p.m.

Chairman Bisbee discussed AB 474 regarding a person under 16, commits a crime and is charged with a life sentence, it's treated as a mandatory parole. For example if the sentence is 5 years to life - after the inmate has served the 5 years, the inmate must meet the criteria to determine if they should be paroled at the minimum 5 year sentence. However, if the Board determines the inmate is a threat to the community, then the Board has the right to deny parole. It is a legislative encouragement to get these youthful offenders out, but also a recognition that since these are life sentences, (sexual assaults, murderers) – that it may not be in the best interest of the community to parole them at such an early stage of their commitment.

The 1<sup>st</sup> step of aggregating minimum sentences was discussed. The only inmates aggravating minimum sentences immediately as of July 1, 2009, are those with life sentences to life sentences. Example: An inmate has a sentence of 10 yrs to life, followed by a consecutive sentence of 10 yrs to life, followed by a consecutive sentence of 10 yrs to life and it's after July 1, 2009 – they automatically serve 30 yrs minimum before they come to the board. They serve

all of their minimums (30 years) prior to coming to the board. Inmates who have been convicted of their consecutive life crimes prior to July 1, 2009 and have never been considered by the Board, can opt in to AB474. There are approximately 16 inmates that qualify for opting in to AB474. The NDOC will notify these inmates that in order for them to opt in to AB 474 – they must do so in writing as the statute states. If an inmate qualifies and chooses to opt in to AB 474 – it cannot be revoked at any time. NDOC will enter this information into the inmate's sentence structure.

Commissioner Baker asked if an inmate has not been noticed by NDOC and it is determined at the time of the inmates hearing that he qualifies for AB 474 – then the Board would go ahead and hear them. Chairman Bisbee re-iterated that the Board holds inmates hearings approximately three months prior to their eligibility date – which means an inmate that qualifies, would still be able to opt in to AB 474. Mr. Smith stated that in the event this happens, the

Board would ask the inmate if he is aware of AB 474 – if so, then the inmate could choose to opt in at that time – if not, then the Board would take no action in order to allow the inmate to decide if he would like to opt in to AB 474. Chairman Bisbee stated as long as no action is taken, then the inmate would be able to make the decision at a later date.

Addendum –There is a large amount of support to aggregate all minimums in the next legislature, which will have an effect on the Board. Chairman Bisbee states this will be a positive thing for all.

Chairman Bisbee stated that the Board was granted the \$25,000 to re-evaluate the Risk Assessment. The Chairman has requested that once the contract has been signed, that a public meeting be held for those members of the public to be able to voice their concerns. Dr. Austin has agreed to meet with the public for their input.

**V. Report from staff on victim privacy pursuant to NRS 200.377(6). The Board may approve the procedures for the handling of victim testimony as recommended by staff, or may direct staff to establish a revised procedure.**

Chairman Bisbee introduced Monica Howk and Susie Broili-Kamesh regarding forms for Privacy Procedures of Victims of Sexual Assault and suggested changes to see what does or does not work. These are not a policy – they are procedures. Privacy Form: Not a policy, but a procedure – suggestion was made to change policy to procedure. Item 1 – add “legal guardian of the victim” to the form.

Commissioner Keeler stated the Southern office did not receive the forms that are being discussed. Commissioner Keeler asked for a few moments to locate the forms.

Parole Board Procedure, Victim Procedure forms were discussed and Ms. Howk was available for questions.

Commissioner Baker stated the forms were very clear and very well done. Commissioner Baker questioned that if a victim is under age and the legal guardian is not present, then if maybe the procedure should include a social worker or counselor. Mr. Smith stated that the waiver would only be used if the victim wanted to testify on camera. Chairman Bisbee introduced Cynthia Hoover, Deputy Attorney General who stated the form would have to be signed by a legal guardian. No one else could give up the child’s rights.

Commissioner Baker questioned the Parole Board Procedure form – Should our procedure include another third party in paragraph one. Ms. Hoover stated that the statute wants the Board to notify the victim and the legal guardian. The statute doesn’t say others cannot be notified, but the victim and legal guardian must be notified.

Commissioner Silva asked if this notification would be sent through the mail. Ms. Howk stated that Kathi Baker, the Executive Secretary of the Board and herself will be getting together to discuss this process – but it has not been worked out as of yet. Chairman Bisbee stated that we are only talking about waiving their physical appearance and their name appearance in front of the Board. Ms. Howk stated that although all victims are notified of the hearing in advance, as the Victim Coordinator, she does not always know if a victim will be attending a hearing.

Commissioner Endel has noticed that there are times that victims change their minds about being seen by the inmate in the middle of the hearing. Commissioner Bisbee stated that if a victim wants to be seen and heard by the inmate then they should sign the release form. If the Commissioner’s have a victim show up that wants to be heard and seen – then the Commissioner’s should have the victim sign the waiver.

Ms. Howk thought it best to have the forms available at both the Northern and Southern offices in the event a victim decides they would like to testify on camera. At that time the Commissioner's would give the victim the waiver to sign.

Commissioner Baker asked if a motion was needed. Chairman Bisbee stated no motion was needed since this meeting is just to determine if any changes to the forms are required.

Petition of Release of Lifetime Supervision – Susie Broili-Kamesh asked to speak. The NRS changed several years ago that gave those on lifetime supervision the ability to request termination after 10 years on supervision if they meet the criteria. Ms. Broili-Kamesh pursuant to NRS 176-0931, created these forms with an instruction sheet. Attachment A – this form is for the offender to review to see if they meet the criteria. Ms. Broili-Kamesh stated that she added the following to #2 on attachment A & B. “Section 2 of NRS 176-0931 which states special session of lifetime supervision commences after any period of probation or any term of imprisonment and any period of release on parole.”

Attachment B – the offender will fill out and send this document to Parole and Probation for the Chief or an authorized representative to complete the form.

Attachment C – The offender will contact a licensed psycho-sexual evaluator and have the licensed evaluator fill out this form.

Certificate – if the offender qualifies – then prepare a petition to send to the court of conviction to let them know that they have been released from life-time supervision as well as to all of the interested parties.

Chairman Bisbee stated that a psycho- sexual evaluator can be very expensive, which is the reason why the forms should be completed in order. If the offender does not meet all qualifications to get to Attachment C - then they are not out the cost of hiring a psycho-sexual evaluator. Chairman Bisbee also stated the certificate would need to be reviewed. “As a Commission – we want it to be very clear that we aren't putting the stamp of approval on this person, but that they meet the statutory requirements that there is no reason according to the statutory requirements that we should or could deny their application. “ The Board needs to be very clear that it is the Board requirement to release this person from lifetime supervision if they meet the criteria and that the Board is just certifying that the person has met the requirements.

Chairman Bisbee asked for any comments or suggestions on the lifetime supervision forms.

Commissioner Baker asked if during a hearing on release from lifetime supervision; will the Division of Parole and Probation have input; and if that should be included in the packet. Ms. Broili-Kamesh stated that was her intention and if it has not been added, it will be.

Commissioner Baker also asked if there was contact with a victim, if the victim will be notified that the offender is no longer on lifetime supervision. Chairman Bisbee stated that the statute does not require that the victim be notified.

Commissioner Baker suggests to #1 on the “Petition of Release from Lifetime Supervision” form should also state the addition mentioned in # 2. Chairman Bisbee reiterated that it has already been discussed to add the NRS to the back of the form.

Commissioner Baker suggested that “where were you convicted” be added to the form because the Board may get requests from offenders on lifetime supervision that have not been convicted in Nevada, which would eliminate the Boards jurisdiction. Chairman Bisbee requested this be added.

Commissioner Baker stated on Attachment C, on the authorization by the defendant for that release, in order to be H.I.P.A. compliant it has to have a beginning and end date for the release. Chairman Bisbee stated we would ask our counsel, Ms. Hoover.

Chairman Bisbee asked for any other questions, comments or suggestions. None were made.

### **VIII. Adjournment**

Motion: To adjourn meeting

Made by: Commissioner Silva

Seconded by: Commissioner Keeler

Votes in Favor: Baker, Gray, Keeler, Silva, Bisbee, Endel

Votes Opposed: None

Meeting adjourned at 4:54 p.m.

DRAFT